

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CHARLES DEJUAN MORRIS,

Case No. 3:13-cv-00137-MMD-VPC

Petitioner,

ORDER

v.

ISIDORO BACA, et al.,

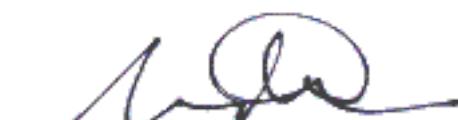
Respondents.

In this habeas action initiated by Charles Dejuan Morris, petitioner seeks a certificate of appealability. The action was dismissed without prejudice for petitioner's failure to pay the filing fee or file a complete application to proceed in *forma pauperis*.

Where the order is not a final order that ends the litigation on the merits, the circuit court does not generally have jurisdiction to hear an appeal. 28 U.S.C. § 1291; *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 467, 98 S.Ct. 2454 (1978). As this Court has not considered nor determined the merits of petitioner's claims and petitioner is free to refile the action with the proper filing fee or *pauper* application, no certificate of appealability is warranted. See *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). The motion will be denied.

IT IS THEREFORE ORDERED that plaintiff's motion for certificate of appealability (dkt. no. 8) is DENIED.

DATED THIS 17th day of June 2013.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE